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464 it is usually accompanied by unwelcome restrictions on the terms and conditions of employment. It was on these grounds that the Government of Burma formerly rejected proposals that it should revive the former practice of official recruitment, and fifty years later mill-owners protested against suggestions that the recruitment of labour should be supervised.[1] Even where recruitment is nominally free, private employers may utilize the assistance of native chieftains, and, during the Liberal regime in Java, when officials were no longer allowed to take part in the provision of labour, the planters commonly entered village headmen on the pay roll as servants of the estate in order to secure their influence in recruiting villagers. Usually, however, labour for western enterprise must be imported from some distant region where it is more plentiful, and in such circumstances special arrangements for recruiting are required. Naturally a private agent, dependent for his livelihood on the number of recruits, is less scrupulous than an official in his relations with both employers and labourers; he will supply employers with anyone whom they will take, and entice recruits with advances and specious promises. Although the substitution of private for official recruitment may supply more and cheaper labour, it is in some respects a change for the worse; the supply of labour is doubtful, the men engaged are often immature or weaklings, and the cost per head is high. Moreover, recruitment causes a local shortage in the area of supply; recruitment for South Africa causes a shortage in Rhodesia which has to be made good by recruitment for Rhodesia further inland, and so on.[2] This stimulates opposition among employers to the system of recruitment. Firms with large capital resources can make their own arrangements for obtaining labour, and thereby ensure a more regular supply of better labourers at less expense. Accordingly the strongest firms, best able to influence the policy of Government, add their weight to humanitarian protests against the evil of recruitment, and advocate stringent regulation.

464 686 The question of recruitment is closely linked up with the penal sanction, imposing a legal penalty for the breach of labour contracts. This protects the employer against strikes and desertion, and thereby reacts on the demand for labour. In Java such provisions originated in local police regulations dating from 1829, which were designed to ease the transition from servile to free labour in domestic service.

[1] *RAB*, 1880–1, p. 52; *RCLI*, x, Pt 1, p. 173.
[2] *African Survey*, pp. 648ff.

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When similar provisions were embodied in the General Police Regulation of 1872, they attracted the attention of Liberals in the States-General, who obtained their cancellation in 1879. In Java the penal sanction was no longer required as there was by this time an abundant supply of wage labour, but the new tobacco plantations in Sumatra were dependent on labour imported under contract, and their needs were recognized by an Ordinance of 1880, providing for the imposition of penalties. The facilities thus granted were abused, and about 1900 an enquiry, held as the result of Socialist agitation exposed 'a general collapse of morality'.[1] An attempt to mend conditions by stricter enforcement of the law proved unavailing, as the legal effect of the penal sanction favoured employers. Accordingly labour policy, hitherto directed towards providing labour, turned gradually in the direction of protecting it. The means chiefly favoured were a closer supervision over recruitment, the gradual abolition of the penal sanction, and a more precise regulation of the duties of employers and employees, together with machinery for enforcing the regulations. The change may be dated from 1909 when official agents were appointed to recruit Chinese coolies from abroad, and rules were framed to control professional recruiting in Java. As the Government considered a penal sanction necessary to efficient management even on its own tin mines, its abolition was a slow process. But the closer supervision over private recruiting encouraged employers to take the matter into their own hands, and from 1915 various planters' associations established recruiting agencies. Employers came also to recognize the value of trained and voluntary labour; they tried to induce time-expired coolies to return for a further period of service after recruiting friends and followers in their villages. In this way plantation labour assumed a new character. By 1930 it was no longer mostly alien, temporary and recruited by irresponsible recruiting agents, but much of the labour was Javanese and exempt from penal liabilities, and the relations between employer and employed had become more permanent and human. A new Ordinance of 1931 aimed at encouraging these tendencies, and provided among other matters for a gradually increasing minimum of free labour, engaged on contracts without a penal sanction. Almost at the same time the Blaine amendment to the United States Tariff Law of 1930 prohibited the importation of the products of labour employed under a penal sanction, unless otherwise unobtainable in sufficient quantities. This threatened the

[1] *Netherlands India*, p. 354; Vandenbosch, p. 282.

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464 686 Sumatra tobacco planters with the loss of a valuable market, and they announced their intention of recruiting all labour on a voluntary basis. As a moral gesture this was not very convincing since, owing to the depression, there was a surplus of labour on the estates, but it served the purpose of satisfying the customs regulations of the United States. At the same time, penal provisions were also renounced by Government in respect of the coolies, mostly Chinese, on its tin mines. Thanks to the Blaine amendment and the depression, the results attained under the Ordinance of 1931 were greater than had been contemplated and, when it came up for revision in 1936, a further advance was possible. By 1941, the penal sanction had practically disappeared, and on the revision of the Ordinance in that year it was finally abolished.[1]

In British India, where western enterprise has never been of such predominant importance as in Netherlands India, the Workman's Breach of Contract Act was repealed in 1926. But in most British territories in Africa, western enterprise is influential, and penal sanctions are attached to labour offences; though legislation of this type is less conspicuous in West Africa. The accepted view is that 'the complete disappearance of criminal penalties must await the evolution of social and economic conditions which will replace the sanctions which penalties supply'.[2] Conditions are less favourable for its abolition than in Netherlands India, but possibly a stimulus, such as that applied by the United States tariff to tobacco planters in Sumatra, might expedite the process.

466 But the abolition of the penal sanction need not, and ordinarily does not, improve the position of the labourer. Just as free recruitment needs regulation if it is not to lead to worse abuses than official recruitment, so free labour, unless protected, may be worse off than contract labour. The social and economic conditions which obviate the need for any legal sanction replace it by a more stringent economic sanction, for the legal sanction becomes unnecessary when the supply of labour is in excess of the demand. Javanese coolies working in Sumatra felt safer under a contract, even when it exposed them to penalties, than when working as free labourers. In Netherlands India it was the Blaine amendment that stimulated the tobacco planters to employ free labour, but their example was followed generally because, owing to the labour surplus resulting from the depression, employers 'were able, easily, and with a certain profit to themselves, to make

[1] *Vrij Nederland*, 22 Nov. 1941.

[2] *African Survey*, pp. 659, 664.

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Chinese Indians

466 167 grants to the United States did in Europe until they were checked. They consistently misrepresented to prospective recruits the conditions of work that awaited them, herded them aboard ships and in lodgings under conditions of filth and crowding, and tried to crimp their competitors' labor forces. Immigrant Asiatic foremen also were similar to their prototypes among immigrant foremen in the United States. They were notorious for the "cuts" they took from their crews' wages, for their unscrupulous profiteering from the sale of food and other necessities to the workers, and for their brutality toward those recalcitrant under arbitrary rule. Nor were alien Asiatic employers liberal in their relations with compatriots among their labor forces. Small Chinese-owned estates and mines were regularly cited in the reports of independent labor inspectors as the most delinquent in their observance of health and safety regulations. Singapore Indian shop-owners were the object of unpleasant publicity regarding the long working days, irregular and inadequate wages, and general tyranny meted out to their compatriot assistants. Disinterested labor leadership or even employer paternalism was conspicuously absent among the immigrant groups.

466 Working conditions were not much better in the enterprises owned by indigenous employers; but they were less conspicuous than those of the immigrant employer's shop, as most of the native workers are farmers scattered over the land and cared for, when in need, by the traditional village and family organization. Little was done by the native governments, whenever they were in power, to better the lot of the small native [563 654] farmer-artisan. The Siamese and Burmese governments falteringly attempted to introduce scientific agriculture, to improve cottage industries and to reduce the landless proletariat; but their efforts were directed more toward ousting foreigners who preyed on the people, particularly alien landowners and moneylenders, than toward improving labor conditions of those working for indigenous employers. The Siamese National Assembly, in 1938, turned down a proposal for labor legislation designed to set maximum hours and minimum wages and to restrict child labor. Its policy on labor organization was much the same as that of the colonial governments, that is, to keep the labor forces under control and to exhibit, at most, a certain indulgence toward the formation of unions in some trades or localities where this seemed advantageous.

Wherever labor legislation was introduced in Southeast Asia, the initiative came from the government and not from the workers. Originally [686] it was the difficulties which European employers experienced in retaining their workers (at first domestic servants and later plantation laborers) that inspired legislation which imposed a penalty upon employees for their non-observance of agreements. Gradually, throughout the region, this penal sanction was abolished and more beneficial types of legislation were introduced to reduce the labor turnover. Considerations of